

For the purposes of this FLSA notice plan, “putative FLSA Class Members” refers to:

All current and former residents of Pathfinders-RTC’s facility in Driftwood, Texas, who were 21 years old or younger as of August 15, 2020, and who, in addition to their required daily chores, engaged in “Work Projects” and/or work assignments while residing and receiving treatment at Pathfinders-RTC.

The parties recognize that disseminating notice to the putative FLSA Class Members will present unique challenges that may cause delay. Defendant does not have last-known contact information for all of the putative FLSA Class Members because the putative class members are or were minors under the care of the State of Texas. Plaintiffs may ask CASA programs and state or county governmental agencies including DFPS, the Texas Juvenile Justice Department, and county juvenile probation departments for assistance in contacting minor putative FLSA Class Members who remain in the custody of or under the jurisdiction of the State.

Plaintiffs may disseminate the agreed Notice and Consent Forms attached as Exhibit A to all putative FLSA Class Members by mail and email; by text message, WhatsApp message, Facebook post and/or message, and/or messaging through other web-based platforms, in the form of a brief summary and link to a webpage and/or digital signing platform that will contain the Notice and Consent Forms; and through CASA programs and DFPS. Plaintiffs are authorized to offer putative FLSA Class Members the option to consent to join this collective action through the use of an online electronic signature opt-in form.

The date of the initial dissemination through any or all of the above-described methods shall take place within 21 days of the Court’s entry of the parties’ attached Proposed Amended Scheduling Order, and will constitute the commencement of the “FLSA Notice Period.” Plaintiffs shall file a notice of commencement of the FLSA Notice Period with the Court on the day the FLSA Notice Period commences. Any putative FLSA class member who wishes to join the FLSA collective action must return a consent form to Plaintiffs’ counsel postmarked no later than 90 days

after the commencement of the FLSA Notice Period. Plaintiffs' counsel shall promptly provide copies of the consent forms to Defendant's counsel. Plaintiffs' counsel shall file, after providing copies to Defendant's counsel, the consent forms with this Court with identifying information redacted as soon as practicable.

Defendant shall post the FLSA Notice Form attached as Ex. B on the cafeteria bulletin board at Pathfinders-RTC's Driftwood facility during the FLSA Notice Period. The Notice and Consent Forms attached as Exhibit A may be disseminated to putative FLSA Class Members who are current residents of Pathfinders-RTC's Driftwood facility via personal contact with parents or guardians, managing conservators, guardians ad litem, attorneys ad litem, DFPS caseworkers, and/or CASA volunteers, and Pathfinders-RTC staff will allow such individuals reasonable access to putative FLSA Class Members.

During the FLSA Notice Period, Plaintiffs may call putative FLSA Class Members (and/or their parents, current or former guardians, managing conservators, guardians ad litem, attorneys ad litem, DFPS caseworkers, and/or CASA volunteers) to confirm address information and receipt of notice. To the extent Plaintiffs make such calls, they will adhere to the scripts in Section 2 (a-b) of the parties' Agreed Scripts for Contact with Class Members Regarding FLSA Notice ("Agreed Scripts"), attached as Exhibit C. Throughout the FLSA Notice Period, Plaintiffs may disseminate the form agreed Notice and Consent Forms attached as Exhibit A through any new contact information they receive for putative FLSA Class Members.

If any putative FLSA opt-in class members seek relief from the FLSA's limitations period, Plaintiffs shall file a motion for equitable tolling within 45 days after the close of the FLSA Notice Period.

III. Motion for Entry of Agreed Proposed Amended Scheduling Order

As noted in the parties' Joint Discovery Plan and Fed. R. Civ. P. 26(f) Report (Doc. 9, ¶ 7), the nature of this case and of the putative FLSA and common-law classes present unique challenges necessitating flexibility with respect to scheduling matters. A trial date was not set during the initial pretrial conference to accommodate potential modifications to the scheduling order (Doc. 14, ¶ 9; Doc. 33, ¶¶ 2, 7). The parties hereby submit their Proposed Amended Scheduling Order, which incorporates the deadlines set forth above in their FLSA Notice Plan, and adjusts the additional currently-operative timeframes¹ to account for the FLSA Notice Period as well as the subsequent phases of this hybrid FLSA collective action and putative Rule 23 class action.

This Motion is not made for the purpose of delay, but rather for the purposes of fairness and efficient use of resources, and the interest of justice will be served by granting this Motion.

IV. Conclusion

Wherefore, premises considered, the parties respectfully request that the Court ratify their FLSA notice plan through entry of the attached Proposed Amended Scheduling Order.

Respectfully Submitted,

By: /s/ Anna Bocchini
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¹ The Proposed Amended Scheduling Order includes a new deadline for the parties to submit their ADR Report in compliance with Local Rule CV-88, as contemplated in the parties' Joint Advisory to the Court (Doc. 47).

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2021, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

/s/ Anna Bocchini